

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

**AARON GARRETT, as Personal
Representative of the Wrongful Death Estate
of Matthew Carr, deceased,**

Plaintiff

v.

Civ. No. 1:23-cv-00509 WPJ-KRS

**BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF EDDY, NEW
MEXICO; WARDEN BILLY
MASSINGILL, in his official capacity;
DARLA BANNISTER, ACNP, individually
And in her official capacity; RONALD J.
HAUGEN, D.N.P, C.N.P, C.N.S,
individually and in his official capacity;
BARBARA MOUNCE, L.M.H.C.,
Individually, CORRECTIONS OFFICER
BARRETT CHADWELL, individually;
CORRECTION OFFICER WENDY
CONTRERAS, individually; BRIANNA
NOWLIN, individually; and KENDRA KEE,
R.N., individually, and JOHN DOES AND
JANE DOES I-IV,**

Defendants.

ORDER APPOINTING GUARDIAN AD LITEM

THIS MATTER is before the Court upon the parties' Joint Motion for Appointment of Guardian Ad Litem, (Doc. 52), to assist the Court in evaluating a proposed settlement of this pending litigation. Having reviewed the file and being otherwise fully advised, the Court hereby finds:

1. A Guardian Ad Litem should be appointed by this Court in connection with the Court's approval of a settlement involving the minor children of Matthew Carr, H.C. and J.C.

2. The Guardian Ad Litem should be appointed to investigate on behalf of the Court the fairness and reasonableness of the settlement and its effect on the minor children.

3. The Guardian Ad Litem's appointment does not contemplate representation of the minor child as an advocate, but only as a functionary of the Court.

4. The Guardian Ad Litem's responsibilities under this appointment are to the Court and not the child. The child in this matter is represented by competent counsel, and the Guardian Ad Litem under this appointment should not be requested to invade or interfere with the children's counsel's responsibility to adequately and effectively represent the children.

5. There are strong public policy reasons to grant immunity to the Guardian Ad Litem in this case, who is acting as an "Arm of the Court" and is performing an essential role in this Court's Administration of Justice, as the Judge's Assistant.

6. All immunities and privileges available to the Guardian Ad Litem, as articulated by the New Mexico Supreme Court in *Collins on behalf of Collins v. Tabet*, 1991-NMSC-013, 111 N.M. 391, should be extended to the Guardian Ad Litem in this matter.

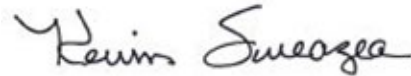
7. Feliz Rael is qualified to perform as a Guardian Ad Litem in this matter.

8. As the Court appointed Guardian Ad Litem, Feliz Rael shall be deemed a party entitled to participate, to have notice of all proceedings, and to receive copies of all pleadings and correspondence among the parties.

9. The Guardian Ad Litem shall be discharged from her duties as Guardian Ad Litem upon conclusion of this litigation herein.

IT IS THEREFORE ORDERED that the Joint Motion to Appoint Guardian ad Litem, (Doc. 52), is GRANTED. Feliz Rael shall be appointed Guardian Ad Litem as an “Arm of the Court,” appointed in connection with this Court’s consideration of a settlement involving H.C. and J.C., the minor children of Matthew Carr, and shall be absolutely immune from any liability for actions taken pursuant to this appointment, in so far as her conduct in the case is as a result of an investigation on behalf of this Court into the fairness and reasonableness of the settlement, the manner in which the settlement monies will be held or used on behalf of the minor children and in its effect on the minor children. The Guardian Ad Litem’s duties and obligation in this Court are owed to the Court, and not the minor child.

IT IS SO ORDERED.



KEVIN R. SWEAZEA
UNITED STATES MAGISTRATE JUDGE

SUBMITTED BY:

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